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IN THE MATTER OF :

THE JOINT APPLICATION OF ORCHARD
GRASS UTILITIES INC. AND OLDHAM
COUNTY SANITATION DISTRICT FOR
APPROVAL OF THE TRANSFER OF
WASTE WATER TREATMENT FACILITIES
PURSUANT TO STOCK PURCHASE
AGREEMENT BETWEEN THE PARTIES

CASE NO.
2004 - 00029

**REBUTTAL OF ROBERT L. MADISON RELATED TO ISSUES AND DATA
REQUEST RESPONSES OF OCSD AND OGU**

ENCLOSURES :

4. COURIER JOURNAL ARTICLE 23 SEP 2003.
5. COURIER JOURNAL ARTICLE 26 DEC 2003.
6. NOTICE FROM RICK RASH DELIVERED ON MY MAILBOX 04
JAN 2004.
7. MY RESPONSE TO RASH LETTER DATED 04 JAN 2004.
8. COURIER JOURNAL ARTICLE 09 JAN 2004.
9. OLDHAM ERA ARTICLE 27 FEB 2004.
10. COURIER JOURNAL ARTICLE 28 FEB 2004.
11. MAPQUEST MAP SHOWING WILLOW CREEK ORCHARD
GRASS AND OLDHAM / JEFFERSON COUNTY LINE.
12. TERRASERVER (WWW.TERRASERVER.MICROSOFT.COM)
AERIAL PHOTO SHOWING, WILLOW CREEK, THE JEFFERSON COUNTY
PORTION CROSS HATCHED AND THE WILLOW CREEK PLANT LOCATION.
13. TERRASERVER AERIAL PHOTO SHOWING WILLOW
CREEK, ORCHARD GRASS, ORCHARD GRASS PLANT AND MSD HITE CREEK
SEWAGE FACILITY.
14. TERRASERVER AERIAL PHOTO SHOWING CLOSE UP OF
MSD HITE CREEK SEWAGE FACILITY.
15. COLOR MAP FROM SCIENTIFIC AMERICAN SHOWING

PAGE 2 OF 6
DATE : 16 MAR 2004

OLDHAM COUNTY IS IN AREA WHERE DROUGHT IS LIKELY.

16. BACKGROUND INFORMATION ON ROBERT L. MADISON.

17. WHAS 11.COM ARTICLE CONCERNING MISUSE OF DRAINAGE FEE MONEY BY CITY OF LOUISVILLE, 05 NOV 2002.

18. HURSTBOURNE BUSINESS, OWNER OF 9116 LEESGATE ROAD (WWW.PVA.LOUKY.ORG); KEVIN D. COGAN INCORPORATOR OF HURSTBOURNE BUSINESS (WWW.SOS.STATE.KY.US); ADDRESS OF JEFFERSON DEVELOPMENT GROUP, OFFICER KEVIN D. COGAN.

THIS IS THE REBUTTAL OF ROBERT L. MADISON TO THE JOINT APPLICATION AND DATA REQUEST RESPONSES OF OCSD AND OGU. THE FIRST SECTION WILL DETAIL TWO PHONE CONVERSATIONS I HAD WITH OLDHAM COUNTY MAGISTRATE RICK RASH AND A TOUR OF THE WILLOW CREEK PLANT WITH RASH, JOHN M. BENNETT AND TWO RESIDENTIAL CUSTOMERS WHO LIVE NEAR THE PLANT. THE SECOND SECTION WILL DISCUSS THE RELEVANCE OF THE MADISON ENCLOSURES AND RELATE TO PORTIONS OF THE DATA REQUESTS.

TWO PHONE CONVERSATIONS WITH RICK RASH AND TOUR OF WILLOW CREEK PLANT

ON 13 & 17 FEB 2004, RICK RASH PHONED ME TO DISCUSS THE PSC CASE. ON 13 FEB 2004, RICK RASH, MYSELF, JOHN M. BENNETT AND TWO RESIDENTIAL CUSTOMERS OF WILLOW CREEK TOURED THE WILLOW CREEK PLANT. THE MAJOR ISSUES DISCUSSED WERE :

A. OCSD PLANS TO SHUT DOWN THE WILLOW CREEK PLANT AS SOON AS POSSIBLE AFTER ACQUISITION. A PUMP STATION WILL BE INSTALLED AND THE SEWAGE WILL BE TREATED AT THE MSD HITE CREEK FACILITY. THE WILLOW CREEK PLANT IS OLD, IS NOT FUNCTIONING PROPERLY AND NEEDS TO BE SHUT DOWN.

B. THERE HAVE BEEN CONTINUOUS QUALITY PROBLEMS WITH THE PLANT INCLUDING SEWAGE OVERFLOWS OUTSIDE THE LAGOON, NUMEROUS OCCASIONS OF EXTREME SMELLS COMING FROM THE PLANT, INFREQUENT REMOVAL OF SEWAGE WASTE FROM THE LAGOON, ETC. DESPITE NUMEROUS COMPLAINT TO THE OWNER, MR. COGAN, HE HAS NOT TAKEN CARE OF THE PROBLEMS. THE STATE REGULATORS HAVE NOT BEEN RESPONSIVE TO COMPLAINTS.

C. OCSD HAS PLANS TO BEGIN A DRAINAGE FEE OF APPROXIMATELY \$ 3 - \$ 4 PER MONTH ON ALL RESIDENTIAL CUSTOMERS AT SOME POINT IN THE FUTURE.

D. RICK RASH IS THE MAJOR MOVING FORCE BEHIND THE OCSD CHANGES IN OLDHAM COUNTY. HE HAS BEEN WORKING ON THIS FOR

PAGE 3 OF 6
DATE : 16 MAR 2004

OVER 10 YEARS.

E. THERE APPEARS TO BE A CONFLICT OF INTEREST WHICH COULD EXPLAIN THE QUALITY PROBLEMS OF THE WILLOW CREEK PLANT AND THE LACK OF STATE REGULATION. MR. COGANS SON, KEVIN D. COGAN, OWNS THE BUILDING IN JEFFERSON COUNTY THAT HOUSES THE KENTUCKY DIVISION OF WATER, NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET.

RELEVANCE OF ENCLOSURES

ENC 4 : PROVIDES BACKGROUND ON THE OCSD TAKE OVER OF THE VARIOUS SEWAGE FACILITIES. IT QUOTES RICK RASH AS FOLLOWS :

“SOME OF THE PLANTS IN MY DISTRICT ARE PAYING \$ 48 OR \$ 50, WHILE OTHERS ARE PAYING AS LITTLE AS \$ 15”, HE [RASH] SAID. “NOW EVERYONE IS GOING TO PAY THE SAME. SOME PEOPLE ARE GOING TO BE HAPPY; SOME ARE NOT GOING TO BE HAPPY.”

THIS REBUTS THE OCSD RESPONSE TO MADISON QUESTION NO. 20 (MQ20) WHICH STATES :

“... OCSD STATES THAT ALL CORRESPONDENCE RECEIVED FROM RESIDENTIAL CUSTOMERS WAS IN FAVOR OF THE NEW RATE STRUCTURE.”

ENC 5 : ALSO DOCUMENTS RESIDENTIAL CUSTOMER DISAPPROVAL OF THE NEW SEWAGE RATES, REBUTTING OCSD RESPONSE TO MQ20. THE ARTICLE DECLARES :

“WE DON'T HAVE A SITUATION WHERE EVERYONE WILL BE EQUALLY HAPPY WHEN WE FINISH THIS, “ SAID SEWER BOARD CHAIRMAN BING EWEN.”

THIS ENCLOSURE DOCUMENTS THE FACT THAT THE OCSD IS LOSING MONEY (MQ4A - OCSD) .

“RIGHT NOW IT'S (OCSD) LOSING \$ 25,000 TO \$ 30,000 PER MONTH ... “PEOPLE COMPLAIN REPAIRS AREN'T BEING DONE, BUT WE DON'T HAVE THE MONEY TO DO THEM, “ SAID TOM DAVIS, WHO JOINED THE BOARD THIS FALL.”

ENC 6 : A NOTICE LEFT ON MY MAILBOX BY RICK RASH ON 04 JAN 2004 CONCERNING THE RATE CHANGE / INCREASE.

ENC 7 : A LETTER I WROTE TO RASH CONCERNING MY OBJECTION TO THE RATE CHANGE. REBUTS OCSD RESPONSE TO MQ20.

ENC 8 : OCSD MEMBERS RAISE THE ISSUES OF THE VARIABLE RATE BASED ON WATER USAGE, THE ISSUE OF CREDITS FOR WATER USED FOR

PAGE 4 OF 6
DATE : 16 MAR 2004

GARDENS , ETC. RASH STATES HIS POSITION ON LOWERING COSTS BASED ON WILLOW CREEK AND ORCHARD GRASS, EWEN ARGUES AGAINST A RATE REDUCTION. THE ARTICLES STATES :

DAVIS ALSO SAID HE WAS CONCERNED THAT REVENUE COULD VARY MORE IF MORE WEIGHT WAS GIVEN TO WATER USE ... RASH HAS ARGUED THAT REVENUE FROM WILLOW CREEK AND ORCHARD GRASS CUSTOMERS SHOULD HAVE BEEN INCLUDED WHEN SETTING THE RATES; A LARGER CUSTOMER BASE SHOULD ALLOW THE DISTRICT TO REDUCE THE RATES BY SEVERAL DOLLARS A MONTH ... BUT SEWER BOARD MEMBER BING EWEN SAID ... ANY INCREASED REVENUE FROM THOSE CUSTOMERS MIGHT HAVE TO BE USED TO REPAIR THOSE SYSTEMS.

ENC 9 : DOCUMENTS PROBLEMS WITH QUALITY OF OCSD IN RECEIVING A NOTICE OF VIOLATION ON ONE OF ITS SEWAGE PLANTS. THIS RAISES THE ISSUE OF WHETHER THE OCSD HAS THE TECHNICAL AND MANAGEMENT ABILITIES TO PROVIDE REASONABLE SERVICE. ALSO DOCUMENTS THAT OCSD HAS A 20 YEAR BUDGET. THE ARTICLE STATES :

OLDHAM COUNTY SEWER DISTRICT OFFICIALS PLEDGED TO ADDRESS PROBLEMS AT TRAIL'S END AT A MEETING FEB. 9 WHEN THEY PRESENTED A TENTATIVE BUDGET FOR THE NEXT 20 YEARS. ... TRAIL'S END HAS BEEN OPERATING UNDER A SANCTION FROM THE KENTUCKY DIVISION OF WATER SINCE EARLY JANUARY. ... BOARD MEMBER TOM DAVIS SAID IN A WORSE CASE SCENARIO, THE SEWER DISTRICT COULD HAVE TO SPEND \$ 487,000 TO GET THE PLANT WORKING ...

ENC 10 : PROBLEMS WITH THE STATE REGULATOR AND MSD, RESULTING IN A \$ 1 MILLION DOLLAR SETTLEMENT. A LAWSUIT HAS BEEN FILED. MSD FEELS RATES WILL HAVE TO BE RAISED AT LEAST 6.5 % EACH YEAR FOR THE NEXT 10 YEARS AT A MINIMUM. THE ARTICLE DECLARES :

KENTUCKY REGULATORS ... SUED THE METROPOLITAN SEWER DISTRICT OVER 258 ALLEGED VIOLATIONS OF THE CLEAN WATER ACT SINCE JANUARY 1999, CITING ILLEGAL SEWAGE DISCHARGES THROUGHOUT THE METRO LOUISVILLE SYSTEM. ... THE KENTUCKY ENVIRONMENTAL AND PUBLIC PROTECTION CABINET ALSO ANNOUNCED A SEPARATE \$1 MILLION DOLLAR LEGAL AGREEMENT WITH MSD ... EPA ORDERS IN SIMILAR SIZE CITIES HAVE RESULTED IN PRICE TAGS OF \$ 1 BILLION OR MORE TO CURB SEWAGE OVERFLOWS. ... HE [BUD SCHARDEIN, MSD EXECUTIVE DIRECTOR] ALREADY ANTICIPATES THAT CUSTOMERS WILL FACE AT LEAST 6.5 PERCENT INCREASES ANNUALLY IN THEIR SEWER BILLS FOR THE NEXT DECADE TO PAY FOR HUNDREDS OF MILLIONS OF DOLLARS IN IMPROVEMENTS, REGARDLESS OF ANY ENFORCEMENT ACTION BY ENVIRONMENTAL REGULATORS.

ENC 11 : THIS IS A MAPQUEST MAP SHOWING THE WILLOW CREEK AND ORCHARD GRASS AREA WITH THE OLDHAM / JEFFERSON COUNTY LINE. MY HOUSE IS LOCATED WHERE THE COUNTY LINE INTERSECTS BAYWOOD DRIVE.

THE STORY OF WHY THE OLDHAM / JEFFERSON BOUNDARY IS DISPUTED WAS TOLD TO ME BY RICK RASH WHEN HE WAS RUNNING FOR MAGISTRATE AND STOPPED BY MY HOUSE IN THE 1980'S. THE WILLOW CREEK SUBDIVISION WAS ORIGINALLY A FARM. ONE OF THE COUNTIES WOULD PAVE THE ROAD TO THE FARMERS BARN IF THE FARM WAS LOCATED IN ONE OF THE COUNTIES. THE FARMER DUG UP THE BENCHMARK WITH HIS TRACTOR AND MOVED IT SO THE ROAD WOULD BE PAVED. THE BENCHMARK WAS THE CONTROL POINT FOR THE LOCATION OF THE COUNTY BOUNDARIES.

ENC 12 : THIS IS AN AERIAL PHOTO OF WILLOW CREEK SHOWING THE JEFFERSON COUNTY PORTION CROSS HATCHED. THE OLDHAM COUNTY PORTION IS NOT CROSS HATCHED. THIS IS BASED ON THE LOUISVILLE PROPERTY VALUATION ADMINISTRATION WEB SITE. NOTE IT DIFFERS SIGNIFICANTLY FROM THE COUNTY LINE ON MAPQUEST (ENC 11).

ENC 13 : THIS IS AN AERIAL PHOTO SHOWING THE RELATIVE LOCATION OF WILLOW CREEK, ORCHARD GRASS AND THE NEAR BY MSD HITE CREEK SEWAGE FACILITY. THE MSD SITE IS IN JEFFERSON COUNTY.

ENC 14 : THIS IS AN CLOSE UP AERIAL PHOTO OF MSD HITE CREEK SEWAGE FACILITY.

ENC 15 : THIS IS A COLOR MAP SHOWING THE HIGH CHANCE OF DROUGHT IN THE OLDHAM COUNTY AREA (MQ9 - OCSD).

ENC 16 : BACKGROUND INFORMATION ON MYSELF.

ENC 17 : WHAS11.COM NEWS ARTICLE, 05 NOV 2002, DOCUMENTING THE MISUSE OF THE CITY OF LOUISVILLE OF DRAINAGE FEE MONEY. THE ARTICLE STATES :

A WHAS 11 NEWS 1 - TEAM INVESTIGATION HAS REVEALED THOUSANDS OF DOLLARS IN CITY MONEY, ONCE TARGETED FOR DRAINAGE IMPROVEMENTS, IS NOW FUNDING OTHER THINGS. ... THE ACCOUNT WAS FUNDED BY [LOUISVILLE] MAYOR DAVE ARMSTRONG IN HIS BUDGET AND MATCHED BY THE METROPOLITAN SEWER DISTRICT. ... THE MONEY HAS BEEN GOING OTHER PLACES ... \$ 70,000 ... TO HELP THE LOUISVILLE ORCHESTRA ... \$ 127,500 ... WENT TO FUND THE OPERATIONS OF GREATER LOUISVILLE, INC. ... SUMMER CONCERTS SERIES ON THE WATERFRONT - \$ 50,000 ... \$ 25,000 HAS GONE TO THE KENTUCKY DANCE COUNCIL ... \$ 20,000 HAS GONE TO HELP FUND RENOVATIONS AT THE PETERSON - DUMESNIL HOUSE ... JANE DRISKELL, DEPUTY MAYOR AND BUDGET DIRECTOR SAID THE MONEY WAS DIVERTED BECAUSE OF A SHORTFALL IN THE BUDGET MSD STANDS BY THE ASSERTION THAT THIS MONEY WAS SOME OF THE BEST IT EVER SPENT.

ENC 18 : THE LOUISVILLE PHONE BOOK LISTS THE FOLLOWING ADDRESS FOR THE KENTUCKY DIVISION OF WATER, NATURAL RESOURCES AND ENVIRONMENTAL CABINET IN JEFFERSON COUNTY : 9116 LEESGATE ROAD.

PAGE 6 OF 6
DATE : 16 MAR 2004

THE LOUISVILLE PROPERTY VALUATION ADMINISTRATION WEB SITE (WWW.PVALOUKY.ORG) LISTS HURSTBOURNE BUSINESS AS THE OWNER OF 9116 LEESGATE ROAD.

THE KENTUCKY SECRETARY OF STATE (SOS) WEB SITE (WWW.SOS.STATE.KY.US) LISTS KEVIN D. COGAN AS ONE OF THE INCORPORATORS OF HURSTBOURNE BUSINESS

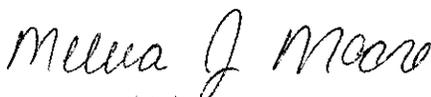
ALSO ON THE SOS WEB SITE ANOTHER BUSINESS, JEFFERSON DEVELOPMENT GROUP, HAS LISTED A KEVIN D. COGAN AS AN OFFICER WITH THE ADDRESS OF 1706 BARDSTOWN ROAD, THE SAME ADDRESS USED BY ORCHARD GRASS UTILITIES.

I CERTIFY THAT ON 16 MAR 2004, COPIES OF THIS LETTER AND ENCLOSURES WERE, MAILED REGULAR MAIL TO ALL PARTIES OF RECORD.

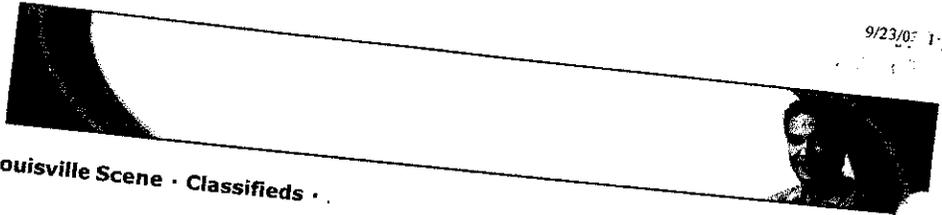
SINCERELY,



ROBERT L. MADISON
5407 BAYWOOD DRIVE
LOUISVILLE KY 40241-1318
HOME PHONE: (502) 241-5079



Melva J. Moore
Commission Expires 2/19/2005
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Tuesday, September 23, 2003

Mail this page

Court action may lead to standard sewer rates in Oldham

By STEVE CHAPLIN
Special to The Courier-Journal

MADISON ENCLOSURE 4
PAGE 1 OF 2
DATE: 16 MAR 2004

An action by the Kentucky Supreme Court has set the stage for the Oldham County Sanitation District to change the monthly service charges for its 2,700 customers.

In a Sept. 10 decision, the court refused a request from the state Public Service Commission to overturn a ruling last year by the Kentucky Court of Appeals that the PSC had no authority over the sanitation district.

Sanitation district officials and members of Oldham Fiscal Court declared the Supreme Court's decision a victory that would eventually allow parity for county sewer users.

"That's a big victory," county Magistrate Bill Tucker declared after learning the news during a Fiscal Court meeting last week. "And that's good news for the sewer district."

THE DISTRICT'S customers currently pay as many as 14 different sewer rates — ranging from \$16 to as much as \$50 a month, depending on their location. The decision clears the way for the district to develop a standardized rate scale, said Richard Chadwell, chairman of the district's board of directors.

The debate over whether the PSC would regulate the Oldham sewer agency started in March 2000, when the PSC approved the district's purchase of Covered Bridge Utilities' wastewater-treatment facilities.

The PSC concluded that the district was subject to commission regulation.

The sanitation district sued. A Franklin circuit judge ruled in the PSC's favor, but a subsequent appeal from the sanitation district to the Court of Appeals favored the district.

The Supreme Court, in refusing the PSC's request to review the case, said the PSC and the district should stand by the appeals court ruling.

We are no longer going to be under the auspices of the PSC," a relieved Chadwell said. "That means we can make rate changes in house, but of course we're still under the direction of Oldham Fiscal Court."

SINCE IT was formed in 1997, the district has been buying out small, privately owned package-treatment plants as part of a plan to develop a countywide system served by larger plants, such as the

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regional treatment facility built in Buckner in 2001. The district has purchased 11 of the smaller systems, and five of those have been closed since the Buckner facility opened.

The district plans to spend \$616,000 to purchase the Ash Avenue Sanitary Sewer Co., a private package plant owned by Jerry Osborne that serves about 900 customers in the Village Green, Ashbrooke and Confederate Acres subdivisions in Oldham County and the Fairfield, Woodmont and Fox Run subdivisions in Jefferson County.

Those customers pay some of the lowest rates in Oldham County, just over \$16 a month, but that will change with the development of a new countywide rate scale, Magistrate Rick Rash said.

"Some of the plants in my district are paying \$48 or \$50, while others are paying as little as \$15," he said. "Now everyone is going to pay the same. Some people are going to be happy; some are not going to be so happy."

Chadwell said no timetable had been worked out for when the new rates would be established, but he said the Supreme Court decision signals an opportunity for Oldham County customers to have fair and balanced billing.

"WE WILL have to find a way to level the rates out," he said. "The important thing right now is that we know we are no longer under the control of the PSC. We didn't believe we should have been, and that's why we filed the original suit."

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MADISON ENCLOSURE 4
 PAGE 2 OF 2
 DATE: 16 MAR 2004

Oldham sewer board to discuss new rate scale
Special meeting set Jan. 5 on standardizing monthly charges

 Mail this page

By **LESLIE ELLIS**
lellis@courier-journal.com
The Courier-Journal

MADISON ENCLOSURE 5
PAGE 1 OF 2
DATE: 16 MAR 2004

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Customers of the Oldham County Sewer District can learn Jan. 5 about plans to create a standardized monthly rate scale to replace more than a dozen different rates now in effect.

The district board will discuss three approaches for calculating new rates, list sample rates and possibly make a decision that night. The rates will still have to go to Fiscal Court the next day for final approval.

New rates would affect the nearly 4,000 residential customers who now pay anywhere from around \$16 to nearly \$50 a month, depending on their location. Rates for 63 commercial and institutional customers will be set as well.

The board is hoping to hear from the community at a special meeting at 4 p.m. Jan. 5 in the second-floor meeting room of the Fiscal Court Building, 100 W. Jefferson St. in La Grange. Various rate proposals, which are still being developed, will be presented during the two-hour hearing.

Officials expect that residential customers will end up paying \$22 to \$28 a month, depending on which rate formula is adopted. That means some people will pay more and some will pay less than they do now.

"We don't have a situation where everyone will be equally happy when we finish this," said sewer board chairman Bing Ewen.

The rates vary so much because the district, which was formed in 1997, has been charging customers the same rates they paid when the district bought the plant serving their area. The district has purchased 10 plants.

It didn't want to change the rates until it resolved a dispute with the state Public Service Commission over whether the PSC would regulate the agency and its rates.

The PSC argued that the district was subject to commission regulation; the district disagreed and sued. A Franklin Circuit Court judge ruled in the PSC's favor, but a subsequent appeal from the sewer district to the Court of Appeals favored the district. The Supreme Court refused to hear the PSC's appeal, allowing the appeals court ruling to stand.

The board will consider three rate structures: A flat monthly rate paid by everyone regardless of water usage; a rate that is based primarily on water consumption; or a combination of the two. Rates for

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commercial and institutional customers also will be set, but will take into account the size of their waterlines.

The goal of the hearing, Ewen said, is to "give people the opportunity to know how we got to these rates, let them hear the discussion and know how we reached a decision."

Ewen said the board is aware its customers are concerned about more than rate changes. Some want to know what the district policies will be if they use water that doesn't enter the sewer system, such as with irrigation systems and sprinklers, or if they have an isolated spike in water usage when filling a swimmingpool.

Whatever rate is adopted will have to provide enough revenue to keep the district operating in the black, board members said. Right now it's losing \$25,000 to \$30,000 a month. Additional revenue also is needed to pay for improvements at sewer plants, most of which are aging neighborhood operations, some of which were in poor shape when the district bought them.

"People complain repairs aren't being done, but we don't have the money to do them," said Tom Davis, who joined the board this fall.

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MADISON ENCLOSURE 5
PAGE 2 OF 2
DATE: 16 MAR 2004

REC 4 JAN 04 BM

MADISON ENCLOSURE 6

PAGE 1 OF 1

DATE: 16 MAR 2004

Dear Sewer Customers,

On Monday, January 5th between 4:00-6:00 PM there will be a Public Hearing in the Oldham County Fiscal Court Room. The purpose of this meeting is to set an average sewer rate of \$28.95 per household.

The Oldham County Sewer District has agreed to purchase your plant and will raise your rate to this amount in February when the Public Service Commission approves the purchase. I have argued on your behalf that the 1000 plus customers in Orchard Grass and Willow Creek should be factored into the equation and thereby reducing the rate by over \$4 a month.

I have also argued that one should pay for the amount of water treated...rather than paying a flat rate. Why should we subsidize the large water users? A rate of \$6.55 a month and \$3 per 1000 gallons used is much more fair to the Customers of Willow Creek and Orchard Grass Hills Sewer treatment plants.

The Fiscal Court Building is at the NW corner of Highways 146 and 53 in LaGrange. Your participation in this process is very important. I hope to see you there. If you are unable to attend, my E-mail is RickRash@netscape.net . I will be glad to take any and all messages to the Commissioners of the Sewer District.

Rick Rash, Magistrate

7409 Autumn Bent Way

Crestwood, KY 40014

241-5611

PAGE 1 OF 2
DATE: 04 JAN 2004

TO: RICK RASH, MAGISTRATE
7409 AUTUMN BENT WAY
CRESTWOOD KY 40014
PHONE : 241 - 5611

I AM WRITING TO YOU CONCERNING A FLYER LEFT ON MY MAIL BOX ON 03 JAN 2004, CONCERNING CHANGES TO MY SEWER RATES.

YOUR LETTER STATED THAT THERE WILL BE A MEETING OF FISCAL COURT ON 05 JAN 2004. MY WORK HOURS ARE 1500 - 2030, THEREFORE I CAN NOT ATTEND. YOUR LETTER SAYS THE OLDHAM COUNTY SEWER DISTRICT HAS AGREED TO PURCHASE MY SEWER PLANT IN FEB AND RAISE THE RATES FROM \$18.00 A MONTH TO \$28.95 PER MONTH, A 60.83 % INCREASE.

THIS IS A DISASTER. I RECOMMEND YOU NOT PURCHASE THE PLANT AND LEAVE THINGS THE WAY THEY ARE. THIS IS A POLITICAL AND ECONOMIC DISASTER. I ASSUME THE REASON FOR THE INCREASE IS THE OLDHAM COUNTY GOVERNMENT WANTS ONE UNIFORM CHARGE. I ASSUME SOME OF THE SEWER PLANTS ARE RELATIVELY NEW WITH NEW EQUIPMENT AND HIGH COSTS. I HAVE LIVED IN WILLOW CREEK SINCE 1980. THE COST OF OUR PLANT HAS PROBABLY BEEN PAID FOR SINCE IT IS RELATIVELY OLD. YOU SHOULD NOT CHARGE ONE RATE FOR THE ENTIRE COUNTY. CHARGE THE COST FOR EACH PLANT LIKE IT IS BEING DONE NOW. I DO NOT WANT TO SUBSIDIZE SOME OTHER PLANT THAT HAS HIGHER COSTS.

YOU STATE YOU WANT TO REDUCE THE RATES FOR WILLOW CREEK AND ORCHARD GRASS BY \$4.00 A MONTH. I DON'T KNOW IF WE EVEN USE THE SAME OR DIFFERENT SEWAGE PLANTS. LEAVE US OUT OF THE EQUATION, WE WANT THE CURRENT LOWER RATE.

I FEEL ONE FLAT RATE PER RESIDENTIAL CUSTOMER IS THE BEST WAY TO GO. THIS HAS WORKED WELL FOR 24 YEARS, IT SHOULD CONTINUE. IF A RATE BASED ON WATER USAGE IS PASSED, THE AMOUNT OF WATER USED SHOULD BE REDUCED TO ACCOUNT FOR WATERING THE LAWN, WASHING CARS, GARDENING, ETC. . THE LOUISVILLE METROPOLITAN SEWER DISTRICT (LMSD) AUTOMATICALLY REDUCES THE SEWAGE CHARGE BASED ON WATER USAGE BY 10 % TO ACCOUNT FOR THESE ACTIVITIES. IN THE PAST FIVE YEARS WE HAVE HAD SOME VERY SEVERE DROUGHTS IN THE SUMMER. IF I DID NOT WATER MY TREES AND SHRUBS THEY WOULD HAVE LIKELY DIED. IN THE EVENT OF A DROUGHT, RESIDENTIAL CUSTOMERS SHOULD HAVE A REASONABLE

MADISON ENCLOSURE 7

PAGE 2 OF 2

DATE: 16 MAR 2004

PAGE 2 OF 2

DATE: 04 JAN 2004

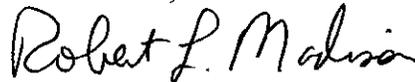
REDUCTION TO THEIR SEWAGE CHARGE, WHICH IS WATER THAT IS NOT TREATED. THE LMSD NEVER HAD AN ADJUSTMENT FOR THIS.

I WORK WITH NUMEROUS CO - WORKERS WHO LIVE IN RADCLIFF KY AND PAY THE SEWAGE RATE BASED ON WATER USAGE WITH NO ADJUSTMENT. THEY TYPICALLY PAY \$40 - \$50 PER MONTH FOR SEWAGE. THIS IS THE DISASTER YOU ARE CONSIDERING, DON'T DO IT.

YOU NEED A SEPARATE RATE FOR BUSINESSES OR INDUSTRY. I DON'T KNOW IF YOU HAVE CONSIDERED THIS FROM THE INFORMATION IN THE LETTER YOU PROVIDED.

YOU SHOULD DELAY A DECISION ON THE SEWAGE RATE TO GIVE PEOPLE A REASONABLE TIME TO RESPOND TO IT. I READ A COURIER JOURNAL ARTICLE ABOUT THE CHANGE BUT I DID NOT KNOW IF IT APPLIED TO WILLOW CREEK SINCE WE ARE IN OLDHAM AND JEFFERSON COUNTY.

SINCERELY,



ROBERT L. MADISON
5407 BAYWOOD DRIVE
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Friday, January 09, 2004

Uniform Oldham sewer rates approved

Change will mean increase for some, decrease for others

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By LESLIE ELLIS
lellis@courier-journal.com
The Courier-Journal

MADISON ENCLOSURE 8

PAGE 1 OF 2

DATE: 16 MAR 2004

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New Oldham County Sewer District rates approved this week mean that customers in subdivisions such as Mockingbird Valley who have been paying a hefty \$46.36 a month could pay 38 percent less for service.

But there's bad news for others, such as customers served by the Ash Avenue plant, who could see their \$16 monthly charge rise as much as 77 percent.

The new scale will affect about 4,000 residential customers and will replace more than a dozen different rates now in effect, some of which are based on a flat fee while others are based largely on water use.

The new residential rates — a monthly \$7.67 service fee, plus a \$3.20 charge for every 1,000 gallons of water — take effect Feb. 1 and will start showing up on bills later that month and in early March.

This is the district's first standardized rate plan since it was formed in 1997 and began acquiring privately owned treatment plants around the county.

The district has been charging customers the same rates they paid when the district bought the plant serving their area, with monthly bills ranging from about \$16 to \$46.

The rate schedule will provide enough revenue to keep the district operating in the black. Currently it's losing \$25,000 to \$30,000 a month. Additional revenue also is needed to pay for improvements at sewer plants, most of which are aging operations.

Under the new rates, some customers' bills will rise and others' will drop. In Mockingbird Valley subdivision in Buckner, for example, the average monthly bill will drop about 38 percent from a flat fee of \$46.36 to \$28.90 for customers using about 6,600 gallons of water.

But for some other customers who use the same amount of water, such as those served by the Ash Avenue sewer plant in Pewee Valley, that charge will be a 77 percent increase.

Sewer bill changes

Average current bill: \$22.15
New rate: \$7.67 monthly service fee,
 plus \$3.20 per 1,000 gallons of water
 used.
Average new bill: \$28.90, based on

The rates were approved after intense debate among members of the sewer district's board and Fiscal Court over whether to adopt charges that were based largely on water use or that had a large

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about 6,600 gallons of water. monthly service fee and a small charge for use.

The sewer board voted Monday night to recommend adoption of a high monthly service fee — \$23.20 — and a charge of 86 cents per 1,000 gallons. It would have been an interim rate for six months until the district got a better handle on finances and spending under the new rate schedule.

But the next day, Fiscal Court, which has final say, rejected the sewer board's recommendation. Magistrates favored imposing a low service fee but charging a higher rate for water use.

Magistrate Rick Rash said a higher service fee would hurt people who use less water. Magistrate Duane Murner and others agreed. "This puts an additional burden on people with low water usage, subsidizing higher users," Murner said.

"If you decide to wash your car five times a week, that's your choice," Magistrate Paula Gish said.

Sewer board member Tom Davis, however, defended the higher monthly fee, saying it was a "fair and businesslike" way to set a rate because it reflected the fixed costs for operating the sewer district, which he thought everyone should pay regardless of the amount of water they put into the system for processing.

He said it costs the district just 86 cents per 1,000 gallons — in chemicals, electricity and sludge-removal costs — to actually process the sewage.

Davis also said he was concerned that revenue could vary more if more weight is given to water use. And he also was concerned that the district didn't know yet how much revenue it might lose by giving customers credit for water that is used for lawns and gardens or swimming pools and never ends up in the sewer system. Sewer bills are based on water meter readings.

District officials said the rates could be revised once they know the financial impact of acquiring two more sewer systems — Willow Creek and Orchard Grass. They hope to buy them this spring or summer.

Rash has argued that revenue from Willow Creek and Orchard Grass customers should have been included when setting the rates; a larger customer base should allow the district to reduce the rates by several dollars a month, he said.

But sewer board member Bing Ewen said the district can't include them in its calculations until it actually owns the systems.

He also said any increased revenue from those customers might have to be used to repair those systems.

Even though the sewer board's plan was rejected, Ewen said the rate schedule that Fiscal Court adopted should bring in the same amount of revenue.

"Both approaches will work, given time," he said. "We'll see if we have valid results. If we need to change the rates, we can come back to the magistrates."

The board is scheduled to take a second vote on the rates at its meeting at 4 p.m. Monday in the Fiscal Court Building, this time adopting the schedule Fiscal Court approved.

The rates also include fees for commercial, industrial and institutional customers.

^^ Back to top

MADISON ENCLOSURE 8
PAGE 2 OF 2
DATE: 16 MAR 2004

Repairs planned for Trail's End; sewer board to review 20-year budget

By Christopher Carpenter

MADISON ENCLOSURE 9

PAGE 1 OF 2

DATE: 16 MAR 2004

Plans to make repairs to Trail's End package sewage treatment plant in Goshen have some residents smiling.

Cheryl Aubrey, who lives with her husband in the house closest to the ailing plant said at times noise and smell get so bad in the summertime that she can't go outside.

"I'm very happy they're going to put some money into making repairs," Aubrey said.

Aubrey said when she moved there 19 years ago, people standing outside wouldn't even know the plant was there unless someone told them. Today, she said she can clearly see the plant from her kitchen window.

Aubrey said as the community has grown, the plant has had to treat sewage from too many houses and has become overloaded.

Oldham County Sewer District officials pledged to address problems at Trail's End at a meeting Feb. 9 when they presented a tentative budget for the next 20 years.

More detailed plans will be presented at a meeting March 8.

Trail's End has been operating under a sanction from the Kentucky Division of Water since early January. The sanction means no more houses can tap on to the plant until it is operating to the DOW's satisfaction.

John Bennett, chief engineer for the Oldham County Sanitation District, said reducing noise at the plant and controlling the smell are the top priorities for the sewer district.

Bennett said the building where the blower is currently housed is metal and acts like a "megaphone" when the blowers are operating. Bennett said the sewer district is considering new blowers and building a new frame building that will project less sound.

To control the smell, Bennett said it is possible to enclose the tanks or cover them and vent the air through a filter that will clean it before it is released.

Bennett said work will begin early this spring.

To address capacity problems at the plant and to get DOW sanctions lifted, Bennett said the sewer district is considering upgrading equipment or putting in bigger tanks.

Board member Tom Davis said in a worst case scenario, the sewer district could have to spend \$487,000 to get the plant working, depending on what the DOW requires in allowing the plant to take on new homes.

Board member Bing Ewen said the DOW had approved about 200 homes before they applied the sanction to the plant. Whether or not those homes can still hook up to the plant before the sanction is lifted is up in the air, Ewen said.

Ewen said in addition to holding a second reading for the sewer district's operating budget at the March 8 meeting, sewer district officials will address a number of issues raised by residents at the last meeting.

Ewen said to make addressing concerns orderly, board members asked people to write their questions on cards or e-mail them after the meeting. Ewen said questions they answer at the upcoming meeting will come from the cards and e-mail.

Ewen said the sewer district plans to build a regional plant in the Goshen area within the next five years that will make it possible to take some of the aging package plants in the area off line.

"My personal feeling is that we're moving in the right direction," Ewen said.

E-mail us about this story at: ccarpenter@oldhamera.com.

MADISON ENCLOSURE 9
PAGE 2 OF 2
DATE: 16 MAR 2004

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Saturday, February 28, 2004

MSD sued over sewer discharges

State also reaches deal on other violations



Mail this page

By **JAMES BRUGGERS**
jbruggers@courier-journal.com
The Courier-JournalMADISON ENCLOSURE 10
PAGE 1 OF 2
DATE: 16 MAR 2004Subscribe!
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Kentucky regulators late yesterday sued the Metropolitan Sewer District over 258 alleged violations of the Clean Water Act since January 1999, citing illegal sewage discharges throughout the metro Louisville system.

The Kentucky Environmental and Public Protection Cabinet also announced a separate \$1 million legal agreement with MSD over numerous water pollution violations at the Morris Forman Wastewater Treatment Plant, which is completing a major upgrade.

The actions come at the same time the U.S. Environmental Protection Agency is conducting its own investigation into MSD's environmental performance, and they follow a letter last year in which the EPA warned that MSD was guilty of "widespread violations."

EPA orders in similar-size cities have resulted in price tags of \$1 billion or more to curb sewage overflows.

The combined enforcement actions show that the state of Kentucky takes seriously its responsibility for enforcing water quality regulations, said LaJuana S. Wilcher, secretary of the state environmental agency.

"We hope the EPA will consider this the type of timely and appropriate action they expect from state officials," she said.

EPA officials in Atlanta could not be reached for comment last night.

Yesterday's lawsuit is aimed at what regulators call sanitary sewer overflows, which occur when sewer lines cannot handle the flow of wastewater, often during wet weather, or when groundwater seeps into cracked pipes. That results in untreated sewage flowing into area streams or the Ohio River, threatening public health and causing property damage, according to the state.

"We created some of these when we pump to keep (waste) water out of basements," said Bud Schardein, MSD's executive director.

The lawsuit identified 63 locations where overflows occurred, including manholes, pump stations and smaller treatment plants.

State officials are asking that MSD be stopped from discharging pollutants through its sewer overflows and establish a long-term abatement plan. They also request that MSD be assessed an

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MADISON ENCLOSURE 10

Wilcher said the state became aware of the overflows from the EPA's investigation.

PAGE 2 OF 2

DATE: 16 MAR 2004

The lawsuit, Schardein said, is going to be the "beginning of some very vigorous and long negotiations" with the state.

MSD has spent \$150 million during the past five years addressing sanitary sewer overflows and has budgeted \$25 million a year for the next five years.

"We will have to sit down and see what they think is a workable schedule," Schardein said.

He already anticipates that customers will face at least 6.5 percent increases annually in their sewer bills for the next decade to pay for hundreds of millions of dollars in improvements, regardless of any enforcement action by environmental regulators.

The state's other action targeted MSD's main treatment plant, the Morris Forman plant in western Louisville, which has never been in compliance with federal water pollution limits imposed in the 1970s.

Wilcher acknowledged that MSD was nearing the end of a major construction project at Morris Forman designed to improve its efficiency and capacity to bring it into compliance. But she said it is typical for a fine or other penalty to be assessed at the end of an enforcement action.

In this case, the state is requiring MSD to spend \$1 million on four environmental improvement projects.

MSD officials have said that \$250 million in upgrades since 1990 should have the plant in compliance next month, including \$153 million spent in the past five years.

The plant's capacity to treat wastewater during rainy weather — which has caused many of the violations — will double to 250 million gallons a day, Schardein said.

He said he expected MSD to be financially penalized as the state completed the enforcement action that required the improvements.

"I knew it was coming, but I didn't know how much," Schardein said, adding that the \$1 million price tag gave him "sticker shock."

Two of the four projects previously were in MSD's capital budget but had been withdrawn because MSD lacked the funds for them. He said he now must find a way to pay for them.

However, he said it is better that the money will go toward specific projects that help the environment, including two creek-bank restoration projects, expanded West End environmental education and money allocated to University of Louisville's Pollution Prevention Center.

The Rev. Louis Coleman, whose Justice Resource Center has protested odors and pollution from MSD, said the enforcement action by the state is "long overdue."

But he said it doesn't go far enough to solve the problem, and he questioned whether West End environmental education would amount to little more than public relations for MSD.

"They are getting a slap on the wrist when they need a big spanking," he said.



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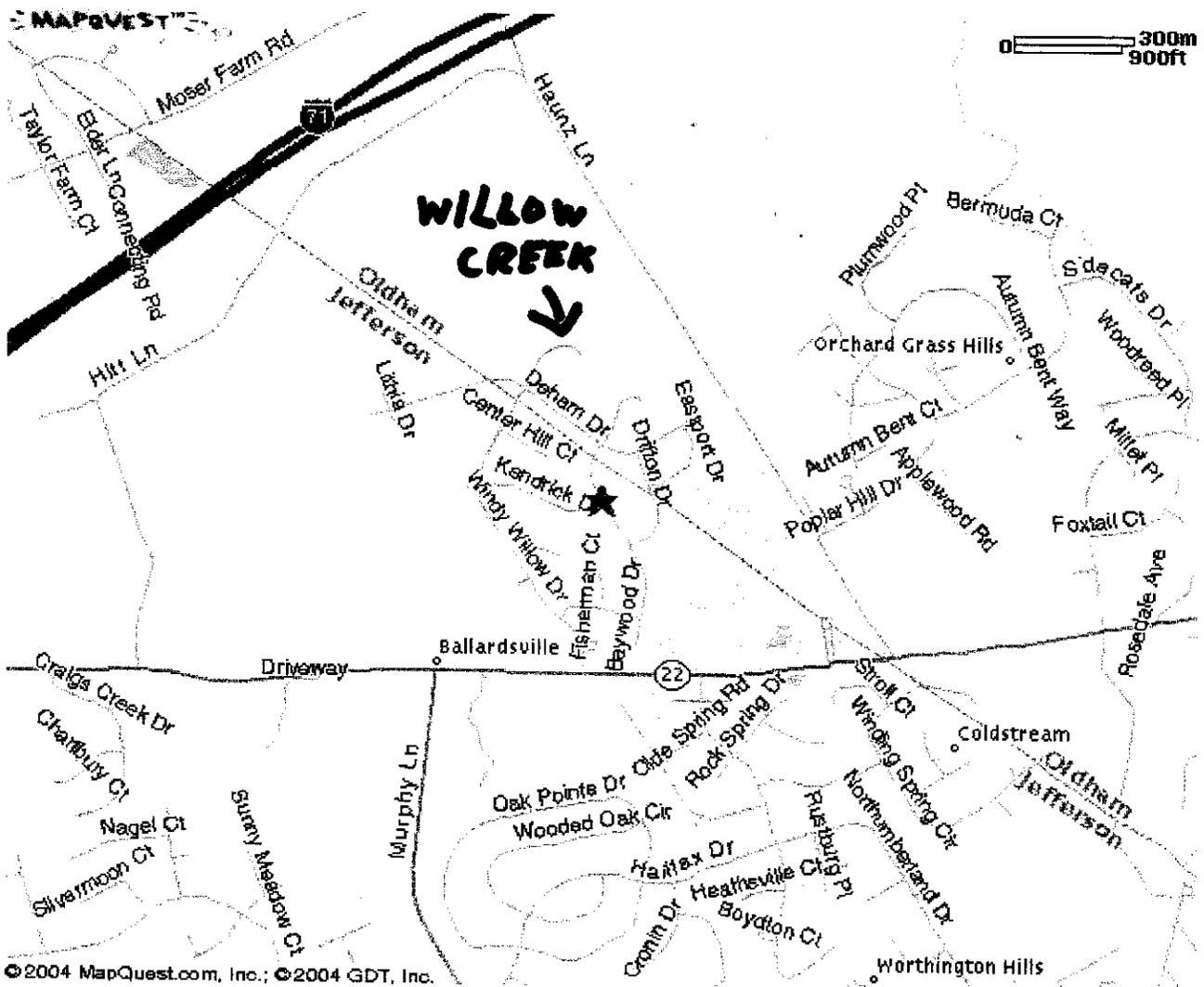
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MADISON ENCLOSURE II
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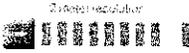
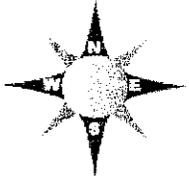
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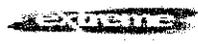
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1 WILLOW CREEK PLANT

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MADISON ENCLOSURE 12

PAGE 1 OF 1

DATE: 16 MAR 2004



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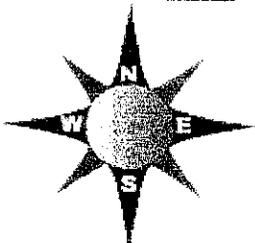
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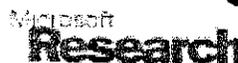
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2 MSD HITE CREEK FACILITY
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MADISON ENCLOSURE 13
PAGE 1 OF 1
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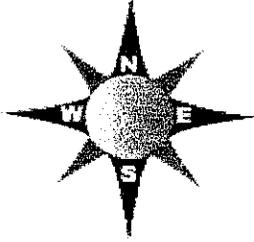
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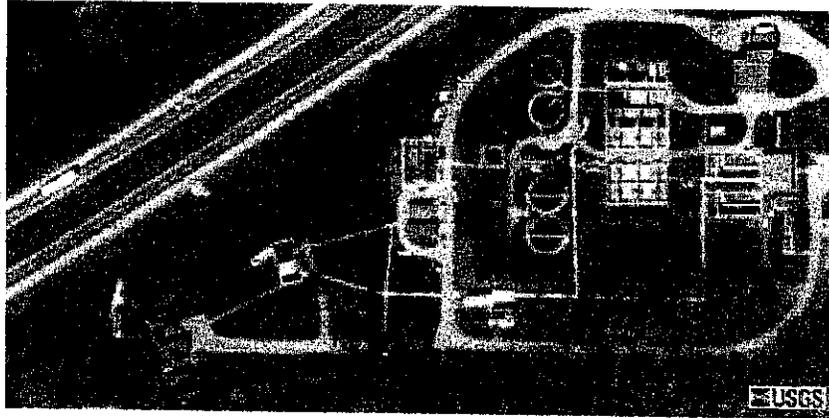
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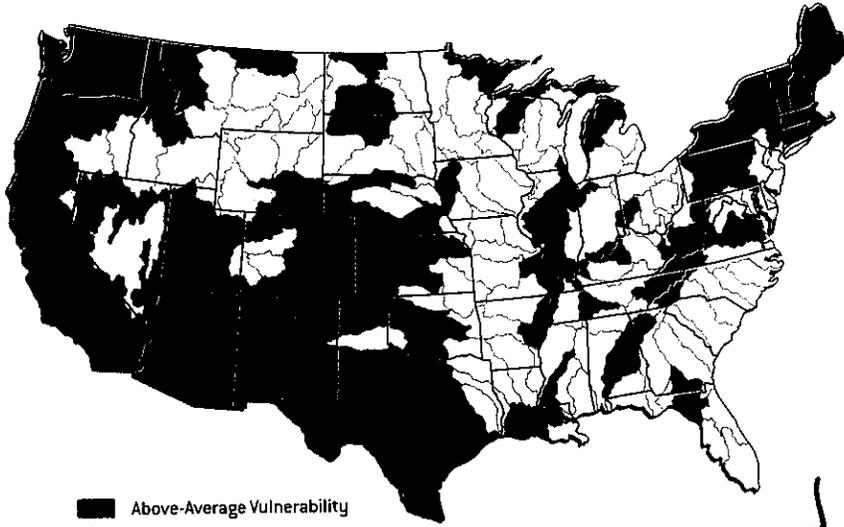
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MADISON ENCLOSURE 14
 PAGE 1 OF 1
 DATE: 16 MAR 2004

VULNERABILITY OF WATER RESOURCES TO CLIMATE VARIABILITY



- Above-Average Vulnerability
- Below-Average Vulnerability
- Hydrological Unit Boundary

SOURCE: "Relative Regional Vulnerability of Water Resources to Climate Change." Brian Hurd, Neil Leary, Russell Jones and Joel Smith in Journal of the American Water Resources Association, Vol. 35, No. 6, December 1999. The overall index shown on map is based on 12 indicators, including groundwater and surface-water withdrawals, stream-flow volume, precipitation lost through evaporation, barriers to water trading, share of industrial water not recycled, expenditures on dredging navigable waters, extremes of heat and cold, dissolved oxygen in water, and species at risk. Map reprinted with permission of the American Water Resources Association.

BACKGROUND INFORMATION ON ROBERT L. MADISON

EDUCATION: 1973-1977, BACHELOR OF ARTS BIOLOGY UNIVERSITY OF LOUISVILLE.

WORK : 1978-1994, CARTOGRAPHER (MAP MAKER), DEFENSE MAPPING AGENCY, LOUISVILLE, KY. 1994 - PRESENT, MAIL HANDLER, U.S. POSTAL SERVICE, LOUISVILLE.

UNION EXPERIENCE : 1988-1994, PRESIDENT NATIONAL FEDERATION OF FEDERAL EMPLOYEES LOCAL 1482.

EXPERIENCE: CHIEF NEGOTIATOR OF UNION CONTRACT, GRIEVANCE, ARBITRATION, IMPASSE, FEDERAL MEDIATION, NEGOTIABILITY APPEALS, FEDERAL LABOR RELATIONS AUTHORITY, UNFAIR LABOR PRACTICES, CLARIFICATION PETITIONS.

1995-1999, UNION STEWARD, NATIONAL POSTAL MAIL HANDLERS UNION LOCAL 304, GRIEVANCES, CONTRACT NEGOTIATIONS, ARBITRATION, UNFAIR LABOR PRACTICE, NATIONAL LABOR RELATIONS BOARD.

KY PUBLIC SERVICE COMMISSION EXPERIENCE :

A. FULL INTERVENTION PSC CASES :

- 1) 97-456 WILLOW CREEK SEWER INCREASE
- 2) 98-426 PBR.
- 3) 2000-095 POWERGEN
- 4) 2000-080 GAS INCREASE
- 5) 2000-386 POLLUTION EQUIPMENT
- 6) 2001-104 E.ON
- 7) ADMINISTRATIVE 387 KY GRID
- 8) 2001-323 HOME ENERGY ASSISTANCE
- 9) 2002-147 POLLUTION EQUIPMENT

B. WRITTEN TESTIMONY:

- 1) 2000-386 POLLUTION EQUIPMENT
- 2) 2001-104 E.ON ACQUISITION
- 3) ADMINISTRATIVE 387 KY GRID

PAGE 2 OF 12
DATE: 16 MAR 2004

MADISON ENCLOSURE 16

- 4) 2001-323 HOME ENERGY ASSISTANCE
- 5) 2002-147 POLLUTION EQUIPMENT

C. ORAL TESTIMONY :

- 1) 2001-104 E.ON ACQUISITION
- 2) 2001-323 HOME ENERGY ASSISTANCE
- 3) 2002-147 POLLUTION EQUIPMENT



MADISON ENCLOSURE 17

PAGE 1 OF 2

DATE: 16 MAR 2004

City money earmarked for drainage going other places

11/05/2002



By Doug
Proffitt

A WHAS11 News I-Team Investigation has revealed thousands of dollars in city money, once targeted for drainage improvements, is now funding other things.

On a rainy day in parts of Louisville, the water stands.

Aldermen have spent money on catch basins and drainage ditches. Resident Pat Oberhausen says the drainage ditch in her neighborhood keeps water from entering her house.

Funneling the water to proper drainage costs millions of dollars, and since 1999, the aldermen have used a special account called the infrastructure/drainage account to get simple projects done.

The account was funded by Mayor Dave Armstrong in his budget and matched by the Metropolitan Sewer District.

But lately, the money has been going other places. WHAS11 News found \$70,000 of the money targeted for Oberhausen's neighborhood going to help the Louisville Orchestra.

"You're the first one to tell me about this. I didn't know that. All I can tell you is that I'm grateful to have the money, grateful to have the money," said Tim King, Louisville Orchestra, when WHAS11 News told him about the diverted funds.

A total of \$127,500 of that same neighborhood money went to fund the operations of Greater Louisville, Inc., the area's Chamber of Commerce.

It doesn't stop here. As the city winds down its final year in business before merger, WHAS11 News found money has gone to the summer concert series on the Waterfront—\$50,000 since April.

A total of \$25,000 has gone to the Kentucky Dance Council.

And \$20,000 has gone to help fund renovations at the Peterson-Dumesnil house in Crescent Hill.

Residents in some of those neighborhoods are puzzled.

"If its given to our area, it should stay in our area," Oberhausen said.

Jane Driskell, deputy mayor and budget director said the money was diverted because of a shortfall in the budget.

"Last year we had not identified any new revenue like we've typically been able to do in previous years, so, yes, we were looking from within, because we didn't have new dollars," Driskell said.

The city says the aldermen themselves voted to transfer that money, but some of them are telling residents it was a tricky deal.

Alderman Barbara Gregg said she had money put in the budget for a specific area, with signed agreements with MSD. "They're ready to go in. I'm ready to go and they're telling me there's no more money," Gregg said.

Fourth Ward Alderman Cyril Allgeier says he never knew City Hall would move the drainage money to other projects, in the event of a shortfall.

"I think it was wrong really. I worked the last 20 years trying to get drainage around the neighborhood," Allgeier said.

So if your yard has standing water, just know that your money is working elsewhere—business recruitment and the orchestra, where they admit, what comes around, goes around, in this case.

"Have you ever stood here at Third and Main? it's not the best drainage, so maybe I'm paying for it. I don't know," King said.

The city auditor looked into the practice of transferring drainage money and found no wrongdoing. MSD stands by the assertion that this money was some of the best it ever spent.

Web story produced by Lisa Durham

Online at: http://www.whas11.com/news/local/stories/WHAS11_LOCALNEWS_drainage_money_diverted.1cedba23.html

MADISON ENCLOSURE 17
 PAGE 2 OF 2
 DATE: 16 MAR 2004



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HURSTBOURNE BUSINESS

Assessed Value \$1,178,610.00

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Profit or Non-Profit N - Non-profit
Company Type KCO - Kentucky Corporation
Status I - Inactive
Standing B - Bad
State KY
Principal Office 136 ST. MATTHEWS AVE.
LOUISVILLE, KY 40207
Registered Agent GEN. PARTNERSHIP
136 ST. MATTHEWS AVE.
LOUISVILLE, KY 40207

Incorporators and Initial Directors

Incorporator KEVIN D. COGAN
Incorporator EDWYNN BURCKLE
Incorporator GEORGE E. CLARK
Incorporator DONALD J. VANDERTOLL

This organization has no assumed names

Organization Number 0224606
Name JEFFERSON DEVELOPMENT GROUP, INC.
Profit or Non-Profit P - Profit
Company Type KCO - Kentucky Corporation
Status A - Active
Standing G - Good
State KY
Organization Date 1/21/1987
Last Annual Report 6/29/2003
Principal Office 1706 BARDSTOWN RD
LOUISVILLE, KY 40205
Registered Agent RAND E. KRUGER
TWO PARAGON CENTRE, SUITE 220
6040 DUTCHMANS LANE
LOUISVILLE, KY 40205
Common No Par Shares 100

Current Officers

Sole Officer Kevin D Cogan

Incorporators and Initial Directors

Director EDWYNN BURCKLE
Incorporator EDWYNN BURCKLE
Director GEORGE E. CLARK
Incorporator GEORGE E. CLARK
Director KEVIN D. COGAN
Incorporator KEVIN D. COGAN

Assumed Names

JEFFERSON DEVELOPMENT GROUP

Status

Active